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 ARTHUR RENOWITZKY and DEWAYNE JACKSON

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

ARTHUR RENOWITZKY and  
 DEWAYNE JACKSON,

Plaintiffs,

v.

TS GURL, INC.; TS GURL  
 INVESTMENT, LLC,

Defendants.

CASE NO. 3:21-cv-06619-JSW  
Civil Rights

**FIRST AMENDED COMPLAINT** FOR  
 PRELIMINARY AND PERMANENT  
 INJUNCTIVE RELIEF AND DAMAGES:  
 DENIAL OF CIVIL RIGHTS AND ACCESS TO  
 PUBLIC FACILITIES TO PHYSICALLY  
 DISABLED PERSONS PER FEDERAL AND  
 CALIFORNIA STATUTES (including CIVIL  
 CODE §§ 51, 52, 54, 54.1, 54.3 and 55; and  
 HEALTH & SAFETY CODE §§ 19953 *et seq.*);  
 INJUNCTIVE RELIEF PER TITLE III,  
 AMERICANS WITH DISABILITIES ACT OF  
 1990 (including 42 USC §§ 12181 *et seq.*)

DEMAND FOR JURY TRIAL

Plaintiffs ARTHUR RENOWITZKY and DEWAYNE JACKSON complain of  
 Defendants TS GURL, INC. and TS GURL INVESTMENTS, LLC, and each of them, and  
 alleges as follows:

1. **INTRODUCTION:** Tommy T's is a restaurant, bar and comedy club that hosts  
 hundreds of members of the public at a time for drinks, food, and comedic entertainment.  
 Unfortunately, the Club also has zero accessible toilet stalls and no accessible sinks for disabled  
 persons to use. It also is so crowded with tables and chairs that it is hard for disabled persons to  
 navigate and lacks accessible seating. The lack of access caused Plaintiff Arthur Renowitzky to  
 experience a humiliating bodily functions accident on July 2, 2021. It also forced Plaintiff

1 Dewayne Jackson to twice use the restroom in the gas station across the street from the Club on  
2 August 28, 2019, and August 19, 2021. *After the lawsuit was filed and in direct retaliation for*  
3 *it, Defendants' agent, "Johnny T," communicated rumors about Plaintiff Jackson to other*  
4 *comedians about the suit, then contacted Plaintiff Jackson directly and told him he could never*  
5 *return to the club because of the lawsuit.* Johnny T also attempted to enlist other comedians as  
6 his agents to pressure Plaintiff Jackson to resolve the lawsuit without fixing the inaccessible  
7 conditions.

8 2. It should never have been this way. Defendants performed an interior remodel in  
9 2006 worth over \$30,000. Defendants' predecessors-in-interest renovated the restrooms in 1995  
10 and performed another alteration in 1974. Each of these alterations required Defendants to make  
11 the restrooms fully accessible. As a result of these and other multiple barriers, disabled Plaintiffs  
12 Arthur Renowitzky and Dewayne Jackson were unable to meaningfully access and enjoy the  
13 Tommy T's Comedy House located in Pleasanton, California.

14 3. Moreover, Plaintiff Jackson, a performing comedian as well as a patron at the Club  
15 in years prior to the incidents complained of herein, gave specific notice to the Defendants that  
16 the Club's restrooms were inaccessible. He told Defendants' manager and/or owner, on  
17 information and belief "Tommy T," that because of the lack of accessible restrooms at the club he  
18 was forced to go across the street to use the toilet. Defendants' owner responded to Plaintiff  
19 Jackson's complaints by indicating he would not fix the restroom. He sarcastically stated, "Sue  
20 me."

21 4. On separate visits to the subject premises, each disabled Plaintiff encountered  
22 barriers to access such as a lack of accessible restrooms, inaccessible paths of travel, and  
23 inaccessible seating. Each Plaintiff was unable to use the men's restroom at the Comedy Club  
24 due to the size of the toilet stall and inaccessible features inside the restroom. Specifically, the  
25 insufficient size of the restroom stall meant that Plaintiff Arthur Renowitzky was forced to choose  
26 between having a defecation accident or attempting a very dangerous transfer onto the toilet from  
27 his wheelchair in public view, which might have still had the same humiliating result in addition  
28 to a physical injury. The same inaccessible conditions caused Plaintiff Dewayne Jackson to leave

1 Tommy T's to use the restroom at a gas station down the street so that he did not experience a  
2 bodily functions accident himself.

3 5. Each Plaintiff came to the filing attorneys' office independently to complain of  
4 their separate incidents of discrimination that each suffered as a result of Defendants' inaccessible  
5 premises. Plaintiffs' counsel determined that due to the causal similarities of each Plaintiff's  
6 discriminatory experience the most efficient way forward was to file one Complaint on behalf of  
7 both Plaintiffs against the common Defendants despite the two Plaintiff's separate and unrelated  
8 encounters at the subject premises.

9 6. Defendants denied disabled Plaintiffs Arthur Renowitzky and Dewayne Jackson  
10 accessible public facilities at the Tommy T's Comedy House located at 5104 Hopyard Road,  
11 Pleasanton, California. Plaintiffs Arthur Renowitzky and Dewayne Jackson are each a "person  
12 with a disability" or "physically handicapped person" who requires the use of a wheelchair for  
13 locomotion. Each is unable to use portions of public facilities which are not accessible to mobility  
14 disabled persons. Plaintiffs were each denied their rights to full and equal access at Tommy T's.  
15 They were denied their civil rights under both California law and federal law, and they continue  
16 to have their rights denied, because these facilities were not, and are not now, properly accessible  
17 to physically disabled persons, including those who use assistive devices for mobility.

18 7. Plaintiffs seek injunctive relief to require Defendants to make these facilities  
19 accessible to disabled persons and to ensure that any disabled person who attempts to patronize  
20 the subject premises will be provided accessible facilities. Plaintiffs also seek recovery of  
21 damages for their discriminatory experiences and denial of access and of civil rights, which denial  
22 is continuing because of Defendants' failure to provide disabled accessible facilities. Plaintiffs  
23 also seek recovery of reasonable statutory attorney fees, litigation expenses and costs, under  
24 federal and state law.

25 8. **JURISDICTION:** This Court has jurisdiction of this action pursuant to 28 USC  
26 section 1331 for violations of the Americans with Disabilities Act of 1990, 42 USC  
27 sections 12101 *et seq.* Pursuant to pendant jurisdiction, attendant and related causes of action  
28 arising from the same facts are also brought under California law, including but not limited to

1 violations of Health & Safety Code sections 19953-19959; California Civil Code sections 51, 52,  
2 54, 54.1, 54.3 and 55; and Title 24 California Code of Regulations, the California State Building  
3 Code.

4 9. **VENUE:** Venue is proper in this court pursuant to 28 USC section 1391(b) and is  
5 founded on the fact that the real property which is the subject of this action is located in this  
6 district and that Plaintiffs' causes of action arose in this district.

7 10. **INTRADISTRICT:** This case should be assigned to the Oakland intradistrict as  
8 the real property which is the subject of this action is located in this intradistrict and Plaintiffs'  
9 causes of action arose in this intradistrict.

10 11. **PARTIES:** Plaintiff Arthur Renowitzky is a paraplegic and a "person with a  
11 disability" or "physically handicapped person" who requires the use of a wheelchair for  
12 locomotion. He has no feeling from the chest down. He is unable to use portions of public  
13 facilities which are not accessible to mobility disabled persons, including those who require the  
14 use of a wheelchair. Plaintiff Renowitzky is entitled by permit from the State of California to  
15 park any vehicle which he drives or is transported in, in a designated and properly configured  
16 disabled accessible parking space.

17 12. Plaintiff Dewayne Jackson is a "qualified" physically disabled person who must  
18 use a wheelchair for ambulation due to paraplegia. He does not have feeling in his legs. He is  
19 unable to use portions of public facilities which are not accessible to mobility disabled persons,  
20 including those who require the use of a wheelchair. Plaintiff Jackson has been issued a  
21 California state placard for disabled parking which entitles him to park in a properly configured  
22 disabled accessible parking space.

23 13. Defendants TS GURL, INC. and TS GURL INVESTMENTS, LLC, are and were  
24 the owners, operators, lessors and/or lessees of the subject business, property and buildings at all  
25 times relevant to each incident described in this Complaint. Plaintiffs are informed and believe  
26 that each of the Defendants herein is the agent, employee, or representative of each of the other  
27 Defendant, and each performed all acts and omissions stated herein within the scope of such  
28 agency or employment or representative capacity and is responsible in some manner for the acts

1 and omissions of the other Defendants in proximately causing the damages complained of herein.

2 14. Tommy T's Comedy Club is a place of "public accommodation" and "business  
3 establishment" subject to the requirements of multiple categories of 42 USC section 12181(7) of  
4 the Americans with Disabilities Act of 1990; of California Health & Safety Code sections 19953  
5 *et seq.*; of California Civil Code sections 51 *et seq.*; and of California Civil Code sections 54 *et*  
6 *seq.* On information and belief, the Tommy T's Comedy Club buildings and its facilities were  
7 built after July 1, 1970, and since then have undergone construction and/or "alterations, structural  
8 repairs, or additions," subjecting each such facility to disabled access requirements per Health &  
9 Safety Code sections 19955-19959 *et seq.*, and, as to construction and/or alterations since January  
10 26, 1993, to the disabled access requirements of section 12183 of the Americans with Disabilities  
11 Act of 1990. Such facilities constructed or altered since 1982 are also subject to "Title 24," the  
12 California State Architect's Regulations, also known as the California Building Code. Further,  
13 irrespective of the alteration history, such premises are subject to the "readily achievable" barrier  
14 removal requirements of Title III of the Americans with Disabilities Act of 1990, as defined by  
15 the ADA. 42 USC § 12181(9).

16  
17 **FIRST CAUSE OF ACTION:**  
18 **DAMAGES AND INJUNCTIVE RELIEF**  
19 **FOR DENIAL OF FULL AND EQUAL ACCESS TO PUBLIC FACILITIES IN A**  
20 **PUBLIC ACCOMMODATION**  
21 **(California Health & Safety Code §§ 19955 *et seq.*, Civil Code §§ 54 *et seq.*)**

22 15. Plaintiffs replead and incorporate by reference, as if fully set forth again herein,  
23 the factual allegations contained in Paragraphs 1 through 14, above, and incorporates them herein  
24 by reference as if separately replied hereafter.

25 16. Plaintiffs Arthur Renowitzky and Dewayne Jackson and other similarly situated  
26 physically disabled persons, including those who require the use of a wheelchair, are unable to  
27 use public facilities on a "full and equal" or meaningful basis unless each such facility is in  
28 compliance with the provisions of California Health & Safety Code sections 19955 -19959.  
Plaintiffs are members of that portion of the public whose rights are protected by the provisions  
of Health & Safety Code sections 19955 *et seq.* Further, Plaintiffs are also protected against

1 policy and architectural barrier discrimination by California Civil Code sections 54 and 54.1, the  
 2 “Disabled Persons Act.” “Individuals with disabilities or medical conditions have the same right  
 3 as the general public to the full and free use of the streets, highways, sidewalks, walkways, public  
 4 buildings, medical facilities, including hospitals, clinics, and physicians’ offices, public facilities,  
 5 and other public places.” Civil Code § 54(a). Furthermore, “Individuals with disabilities shall be  
 6 entitled to full and equal access, as other members of the general public, to accommodations,  
 7 advantages, facilities, . . . places of public accommodation, amusement, or resort, and other places  
 8 to which the general public is invited.” Civil Code § 54.1(a). Additionally, any violation of the  
 9 ADA, including but not limited to any violation of 42 USC sections 12182 and 12183, is also  
 10 incorporated as a violation of the Disabled Persons Act. Civil Code §§ 54(c), and 54.1(d).

11 17. Title 24, California Code of Regulations, formerly known as the California  
 12 Administrative Code and now also known as the California Building Code, was in effect at the  
 13 time of each alteration which, on information and belief, occurred at such public facility since  
 14 January 1, 1982, thus requiring access complying with the specifications of Title 24 whenever  
 15 each such “alteration, structural repair or addition” was carried out. On information and belief,  
 16 Defendants and/or their predecessors in interest carried out new construction and/or alterations,  
 17 structural repairs, and/or additions to such buildings and facilities during the period Title 24 has  
 18 been in effect. Further, Plaintiffs allege, on information and belief, that construction, alterations,  
 19 structural repairs, and/or additions which triggered access requirements at all relevant portions of  
 20 the Tommy T’s, also occurred between July 1, 1970, and December 31, 1981, and required access  
 21 pursuant to the A.S.A. (American Standards Association) Regulations then in effect, pursuant to  
 22 the incorporated provisions of California Government Code sections 4450 *et seq.* Further, on  
 23 information and belief, additions to the building after the initial construction also occurred after  
 24 January 1, 1972, triggering access requirements per Health and Safety Code section 19959, and as  
 25 to alterations or additions after January 26, 1993, triggering ADA liability and requirements per  
 26 42 USC sections 12182 and 12183 of the ADA.

27 18. **FACTUAL STATEMENT AS TO PLAINTIFF ARTHUR RENOWITZKY:**  
 28 Plaintiff Arthur Renowitzky founded the Life Goes on Foundation in 2008, “a non-political, non-

1 profit organization,” created to “provide [spinal cord injury] survivors and their families  
2 with support to aid in the life-long process towards recovery.” See [https://www.lgof.org/about\\_us](https://www.lgof.org/about_us).  
3 The Life Goes on Foundation works “nationally to advance the personal independence and  
4 wellness of individuals living with disabilities.” Plaintiff Renowitzky prides himself on not just  
5 his independence but on empowering other disabled persons, including coaching for the Junior  
6 Warriors children’s wheelchair basketball team. A news report video depicting the charity work  
7 that Plaintiff Renowitzky has done and his interactions with several NBA Warriors players can be  
8 seen here: [https://abc7news.com/community-events/paralyzed-dubs-fan-inspires-community-and-](https://abc7news.com/community-events/paralyzed-dubs-fan-inspires-community-and-the-warriors/5264759/)  
9 [the-warriors/5264759/](https://abc7news.com/community-events/paralyzed-dubs-fan-inspires-community-and-the-warriors/5264759/).

10 19. Plaintiff Renowitzky is a disabled person resulting from a spinal cord injury that  
11 he suffered because of a random act of gun violence by a stranger in 2008. His spinal cord  
12 between the T2 and T3 vertebrae is severed. He has no feeling from his chest downward and is  
13 unable to walk or climb stairs. He uses a manual wheelchair and has good upper body strength  
14 from working out and playing wheelchair basketball. In order to perform basic bodily restroom  
15 functions and relieve himself, he must use and change his disposable catheter on a regular  
16 schedule to avoid infections when urinating and uses other personal medical equipment when  
17 defecating. His body signals to him when he needs to relieve himself, including warmth in his  
18 stomach, twitching, and sweating. Plaintiff Renowitzky has learned to interpret these signals and  
19 must use the restroom within 5 to 10 minutes of noticing them to avoid experiencing a bodily  
20 functions accident. He relies on businesses and other public places to provide accessible restroom  
21 facilities which are large enough so that he can carry out these functions in a regular and timely  
22 manner.

23 20. Plaintiff Renowitzky made plans to go to Tommy T’s Comedy Club on July 2,  
24 2021, to meet two of his best friends who he had not been able to see in person for the last  
25 eighteen months due to the Covid-19 pandemic. The three were very excited to see each other  
26 and attend the Kabeezy & Friends comedy show. Plaintiff Renowitzky had purchased advanced  
27 tickets for the show online.

28 21. On July 2, 2021, Plaintiff Renowitzky drove himself to the Tommy T’s Comedy



1 Club in his disabled licensed vehicle. He parked in a designated accessible parking space.

2 Plaintiff Renowitzky arrived early, so after exiting his vehicle, he pushed himself to a nearby gas  
3 station to make a purchase. He then pushed himself back to Tommy T's Comedy Club. Plaintiff  
4 Renowitzky noticed that there was no sidewalk leading from the public right of way to Tommy  
5 T's, so he had to travel in the vehicular path of travel to get to the door of the club. Additionally,  
6 Plaintiff Renowitzky found traversing the parking lot difficult due to the multitude of cracks and  
7 potholes in the parking lot pavement.

8 22. Plaintiff Renowitzky arrived at the front entrance to Tommy T's Comedy Club,  
9 waited in line to get in, then showed his ticket to the host when he was at the front of the line.  
10 Plaintiff Renowitzky looked at the seating options, and not seeing any obviously designated  
11 accessible seating, he asked the host where the best place for him to sit would be. The host asked  
12 Plaintiff Renowitzky to wait for a moment because they would have to move tables and chairs  
13 around to accommodate him. Plaintiff Renowitzky attempted to place himself as out of the way  
14 of other patrons as possible. Waiting for Defendants' employees to move furniture around so that  
15 he could have a place to sit caused him unwanted attention and embarrassment.

16 23. Eventually, Defendants' staff showed him and the rest of his group to a table, and  
17 everyone ordered some food and drinks. The group settled in to enjoy the show and each other's  
18 company.

19 24. During the second comedian's set, Plaintiff Renowitzky began to recognize the  
20 signals that his body gives him when he needs to defecate, so he excused himself to go to the  
21 restroom. Once Plaintiff Renowitzky recognizes the signal from his body, he knows that he has  
22 only a limited amount of time to get to a restroom in order to carry out his bodily functions, so he  
23 went directly to the restroom. Unfortunately, when he arrived in the men's restroom, he saw that  
24 the toilet stall was totally inaccessible.

25 25. Although the restroom itself was quite large, the toilet stall itself was not much  
26 bigger than a closet situated in an alcove surrounded by three walls. Plaintiff Renowitzky could  
27 barely maneuver his chair at a diagonal to get his feet past the threshold of the stall. Most of his  
28 body was left outside of the stall in plain view of multiple patrons entering and exiting the



1 restroom at the busy event. There was insufficient room to attempt a side transfer from his  
2 wheelchair to the toilet, which is his regular practice as it is the safest way for him transfer.

3 26. Plaintiff Renowitzky faced a terrible and impossible choice the law should protect  
4 him from having to make. Either defecate on himself in his wheelchair in public, or attempt a  
5 dangerous front transfer that, assuming he made the jump to the toilet at all, would leave the stall  
6 door open and expose himself to other patrons as he defected.

7 27. A front transfer meant that he had to have his wheelchair facing the toilet, then use  
8 the grab bar and the toilet itself to pull himself forward and turn around in mid-air so that he  
9 could land on the toilet facing the correct way. This is a dangerous maneuver, and under normal  
10 circumstances Plaintiff Renowitzky would never attempt it. Had he fallen, he could have injured  
11 himself severely, and would have likely defecated on himself anyway. However, his need to use  
12 the restroom was now an emergency situation. Fortunately, he made the transfer to the toilet  
13 successfully, but the small size of the stall made it so that he was unable to close the door because  
14 his wheelchair was protruding from the stall. Plaintiff Renowitzky thus had to defecate and  
15 change his urinary catheter with the door to the toilet stall wide open and in full view of other  
16 patrons who entered the restroom while he was carrying out this private personal care. The  
17 patrons were glancing at Plaintiff Renowitzky with curiosity or confusion, all of which caused  
18 him significant humiliation.

19 28. Once Plaintiff Renowitzky had carried out his bodily functions, he then had to  
20 make the same dangerous front transfer back into his wheelchair from the toilet, which he did  
21 successfully. As he swung back into his chair, Plaintiff Renowitzky noticed that he had gotten  
22 some bodily waste material on his clothing in his rush to complete this private bodily function.

23 29. Plaintiff Renowitzky went to the sink to wash his hands and try to clean his  
24 clothes, but he was unable to access the sink or the soap. The sink was too high and the cabinets  
25 under it made it impossible to reach the faucet or the soap dispenser. It is extremely important for  
26 Plaintiff Renowitzky to keep himself and his hand clean because he is susceptible to infections if  
27 he does not when changing his catheter. He did his best to clean himself up with hand sanitizer  
28 that he carries with him, but hand sanitizer is no substitute for soap and hot water.

1           30. Plaintiff Renowitzky left the restroom and returned to his table, but he could not  
2 enjoy the rest of the show due to the constant worry about the possibility of having to use the  
3 restroom again. He also worried that he may have smelled of the bodily waste, bringing him  
4 further humiliation. However, he did not want to make a scene in front of his friends to just leave  
5 the show immediately. After the comedian that was performing finished his set, Plaintiff  
6 Renowitzky let his friends know that he was going home. He was sad to leave, because he had  
7 barely had a chance to catch up with his friends, but he could not risk having to use the restroom  
8 again, so he left. Plaintiff Renowitzky left feeling humiliated at having had to carry out such a  
9 private function in front of other patrons of Tommy T's Comedy Club.

10           31. **FACTUAL STATEMENT AS TO PLAINTIFF DEWAYNE JACOKSON:**  
11 Plaintiff Jackson is a disabled person resulting from an incomplete L2-L3 spinal cord injury that  
12 he suffered as a result of a gunshot in 2004. He is unable to stand, walk or climb stairs. He uses a  
13 manual wheelchair and has good upper body strength from working out. He relies on businesses  
14 and other public places to provide accessible restroom facilities so that he can carry out these  
15 functions in a regular and timely manner.

16           32. Plaintiff Jackson is a professional standup comedian. He has been performing his  
17 act for approximately 20 years. He has performed at comedy clubs all over the California as well  
18 as in other parts of the United States. He has performed at Tommy T's Comedy Club in  
19 Pleasanton many times over the years both as a paid comedian and during open mic nights. In  
20 addition to performing, Plaintiff Jackson also loves to watch other comedians perform. He has  
21 also been a patron of Tommy T's Comedy Club many times.

22           33. On August 28, 2019, Plaintiff Jackson attended, as a patron, the "Stop, Drop &  
23 Roll" comedy fundraiser for back-to-school supplies sponsored by Pleasanton Firefighters and  
24 hosted at Tommy T's Comedy Club. Upon arriving at the event, Plaintiff Jackson found it  
25 difficult to locate a seat that was accessible to him in his wheelchair because many of the tables  
26 were too high to pull his wheelchair up to, and the tables which were low enough for him to pull  
27 up to in his wheelchair were difficult to reach due to the small size of the aisles and minimal  
28 maneuvering space between the tables and chairs.

1           34. While Plaintiff Jackson was at the event, he needed to use the restroom. Based on  
2 his prior experiences at Tommy T's Comedy Club, he knew that the restrooms were not  
3 accessible and that he was unable to use them safely and with privacy, so he left the venue and  
4 pushed himself to a nearby gas station so that he could use an accessible restroom. Plaintiff  
5 Jackson had to miss some of the comedy acts due to the time that it took him to get to the gas  
6 station and back.

7           35. After a long hiatus from going to comedy clubs due to the Covid-19 Pandemic,  
8 Plaintiff Jackson returned to Tommy T's Comedy Club on August 19, 2021. He was invited to  
9 attend a friend's movie premiere of "Vampire in Oakland." Originally, Plaintiff Jackson had  
10 planned to attend as a guest, but at the last minute, his friend asked him to perform a comedy set  
11 prior to the movie screening. Plaintiff Jackson agreed to perform.

12           36. Plaintiff Jackson arrived at Tommy T's Comedy Club a prior to his set. He did not  
13 have to pay admission because he was performing. Upon entering he went to the back of the  
14 venue near the area where waitresses retrieve drinks for dining patrons. Based upon his prior  
15 experience at Tommy T's Comedy Club, Plaintiff Jackson knew that this area would provide him  
16 the most space in his wheelchair. He was unable to pull up to a table because all the tables in the  
17 back are too high to use in a wheelchair. However, he did order some food and a drink from a  
18 passing waitress which he was able to consume prior to his performance.

19           37. When it was Plaintiff Jackson's turn to perform, he began to make his way toward  
20 the stage. Unfortunately, it was very difficult for him to maneuver his wheelchair between the  
21 tables, and he had to ask several patrons to move so that he could get to the stage. Upon arriving  
22 at the foot of the stage, Plaintiff Jackson then had to request the assistance of a few friends to lift  
23 him onto the stage because the only way to reach the stage is to climb stairs. Plaintiff Jackson  
24 was lifted onto the stage by his friends, he performed, and then he had to be lifted down from the  
25 stage again. Anytime he must be lifted in his wheelchair it causes him anxiety, discomfort, and  
26 embarrassment. Plaintiff Jackson prides himself on his independence, and he does not like to ask  
27 for or receive assistance unless it is necessary. Being lifted in his wheelchair also creates a  
28 spectacle, unwanted attention, and the anxiety that he could be dropped and injured.

38. Plaintiff Jackson returned to his place in the back of Tommy T's to enjoy the rest of the movie premier. During the movie, Plaintiff Jackson had to use the restroom. He knew from his prior experiences at Tommy T's Comedy Club that the restroom was not accessible to him, but he hoped that Defendants had made some improvements to the club since his last visit. He checked to see if the restrooms were accessible to him. Disappointingly, Plaintiff Jackson found that the restrooms were in the same inaccessible condition that they had been on his prior visits.

39. Plaintiff Jackson had considered the possibility that Defendants' restroom would still be inaccessible to him, so he left himself sufficient time to push to the gas station to use the restroom as he had done in the past. The embarrassment of being forced to leave the venue to use the restroom made him feel like a second-class citizen, where others were able to use the restroom at the facility. Plaintiff Jackson left the venue, pushed himself to the gas station, used the accessible restroom, and returned to Tommy T's for the remainder of the movie premiere. Again, he missed part of the event so that he could use an accessible restroom in a different location. Plaintiff Jackson's experiences at Tommy T's caused him difficulty, discomfort and embarrassment, all to his damages.

40. **FACTS ABOUT DEFENDANTS' RETALIAITON FOR LAWSUIT:** On or about September 9, 2021, Plaintiff received a text from another comedian<sup>1</sup> colleague who indicated that "Johnny T," (on information and belief the son of an owner of the subject premises and business "Tommy T") had asked for Plaintiff Jackson's number and wanted to speak with Plaintiff. The comedian did not know what Johnny wanted to discuss. Shortly thereafter Plaintiff received a call from Johnny T.

41. Johnny T told Plaintiff that he had received a lawsuit in the mail and that he recognized Plaintiff Jackson's name. He forcefully expressed his discontent and anger with Plaintiff Jackson and with the lawsuit. He alleged that he believed he and Jackson "were brothers," and that they "could have resolved this another way" and that they "could have come to

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<sup>1</sup> To protect against further reprisal, the names of colleague comedians are being kept anonymous until such time as the retaliation ceases or the disclosure is otherwise required by law.

1 an agreement.” Johnny T did not offer to make the restrooms and premises accessible. Plaintiff  
2 Jackson told Johnny T he did not want to talk about the lawsuit with him. At the end of the phone  
3 call, Johnny T told Plaintiff he was not welcome to return to the club.

4 42. After the phone call had ended, Plaintiff spoke again with the comedian who had  
5 texted him just before the conversation with Johnny. The comedian told Plaintiff that Johnny was  
6 angry about the lawsuit, and that Johnny wanted he, the comedian, to help resolve the matter. On  
7 information and belief, the comedian feared professional reprisal from Johnny T if he did not  
8 communicate and try to persuade Plaintiff to resolve the lawsuit. Plaintiff told the colleague that  
9 he did not want the colleague in the middle, and that they should just drop talking about it.

10 43. On or about September 20, 2021, Plaintiff Jackson received a phone call from  
11 another, different comedian colleague who warned Plaintiff that “Johnny T,” had been talking  
12 about Plaintiff Jackson and the lawsuit in a negative light with other comedians. The colleague  
13 further warned Plaintiff Jackson that Johnny T was angry, wanting him to try to persuade Jackson  
14 to settle the lawsuit informally. All these efforts were attempts to circumvent Plaintiff’s wish that  
15 he and Johnny do not talk about the lawsuit. Plaintiff Jackson felt coerced by Johnny to drop the  
16 lawsuit. The rumors also damaged Plaintiff Jackson’s reputation. He also felt pressure to drop  
17 the lawsuit in order to stop Johnny from spreading further rumors to other comedians. On  
18 information and belief, Johnny’s status as the club manager and/or owner, coerced others, as his  
19 agents, to pressure Plaintiff Jackson to settle or drop the lawsuit without providing an accessible  
20 restroom or prove access generally at the premises. Johnny T did so when those overtures were  
21 explicitly unwelcomed and already declined by Plaintiff. The pressure to resolve the dispute  
22 occurred even as there had been no changes to the physical premises to make it accessible so that  
23 Plaintiff Jackson and other disabled persons could use it.

24 44. Plaintiff Renowitzky is aware of the retaliation against his co-plaintiff and is  
25 similarly deterred from returning to the premises based on his association with Plaintiff Jackson  
26 and his participation in the lawsuit.

27 45. **FACTS REGARDING BUILDING ALTERATION HISTORY:** The building  
28 permit history of the Club shows that the premises was constructed and/or substantially renovated

1 in 1974. The restroom itself was altered in 1995 including changing the configuration of the  
2 walls, making the sink accessible (which was not done), moving of partition walls, and moving of  
3 doors. The restroom was not made accessible and remains inaccessible. Finally, in approximately  
4 2006 Defendants themselves undertook an interior remodel of the premises that they estimated for  
5 the building department would cost \$30,000, but Defendants failed to provide accessible  
6 restrooms during this or any of the renovations.

7 46. The above referenced barriers to access are listed without prejudice to Plaintiffs  
8 citing additional barriers to access by an amended complaint after inspection by Plaintiffs' access  
9 consultant. *Oliver v. Ralphs Grocery Co.*, 654 F.3d 903 (9th Cir. 2011); *Doran v. 7-Eleven, Inc.*  
10 524 F.3d 1034 (9<sup>th</sup> Cir. 2008); *Chapman v. Pier One Imports (USA), Inc.*, 631 F.3d 939 (9<sup>th</sup> Cir.  
11 2011). All of these barriers to access render the premises inaccessible to physically disabled  
12 persons who are mobility impaired, such as Plaintiffs, and are barriers that each Plaintiff may  
13 encounter when he returns to the premises. All facilities must be brought into compliance with all  
14 applicable federal and state code requirements, according to proof.

15 47. Further, each and every violation of the Americans with Disabilities Act of 1990  
16 also constitutes a separate and distinct violation of California Civil Code section 54(c) and  
17 54.1(d), thus independently justifying an award of damages and injunctive relief pursuant to  
18 California law, including but not limited to Civil Code sections 54.3 and 55.

19 48. **INJUNCTIVE RELIEF:** Plaintiffs seek injunctive relief to prohibit the acts and  
20 omissions of Defendants as complained of herein which are continuing on a day-to-day basis and  
21 which have the effect of wrongfully excluding Plaintiffs and other members of the public who are  
22 physically disabled, including but not limited to wheelchair users, from full and equal access to  
23 these public facilities. Such acts and omissions are the cause of humiliation and mental and  
24 emotional suffering of Plaintiffs in that these actions continue to treat Plaintiffs as inferior and  
25 second-class citizens and serve to discriminate against them on the sole basis that they are each a  
26 person with disabilities who requires the use of a wheelchair for movement in public places.  
27 Specifically, removal of the bathroom stall partition and replacement of the sink would provide  
28 ample space for a single accommodation restroom. Such alterations, on information and belief,

1 would not be very expensive or difficult to do in order to provide a fully accessible restroom.  
2 Similarly, providing grab bars and adding a lock to the bathroom entrance would be easy to  
3 accomplish and would provide accessible features in the restroom. Such work could likely be  
4 accomplished for less than \$10,000 and would not require building permits.

5 49. Plaintiffs are deterred from returning to use these facilities, because the lack of  
6 access will foreseeably cause them further difficulty, discomfort and embarrassment, and  
7 Plaintiffs are unable, so long as such acts and omissions of Defendants continue, to achieve equal  
8 access to and use of these public facilities. Therefore, Plaintiffs cannot return to patronize  
9 Tommy T's Comedy House and its facilities and are deterred from further meaningful and  
10 enjoyable patronage until these facilities are made properly accessible for disabled persons.  
11 Plaintiffs both enjoy standup comedy and know standup comedians who perform throughout the  
12 bay area. Each Plaintiff will return to the subject premises if it is made accessible to see comedy  
13 shows.

14 50. The acts of Defendants have proximately caused and will continue to cause  
15 irreparable injury to Plaintiffs if not enjoined by this Court. Plaintiffs seek injunctive relief as to  
16 all inaccessible areas of the premises that each Plaintiff has personally encountered, and, as to all  
17 areas identified during this litigation by Plaintiffs' access consultant, that they or other similarly  
18 disabled persons may encounter in the future. *Doran v. 7-Eleven, Inc.*, 524 F.3d 1034 (9<sup>th</sup> Cir.  
19 2008); *Chapman v. Pier One Imports (USA), Inc.*, 631 F. 3d 939 (9<sup>th</sup> Cir. 2011); *Oliver v. Ralphs*  
20 *Grocery Co.*, 654 F.3d 903 (9<sup>th</sup> Cir. 2011). As to those of the Defendants that currently own,  
21 operate, and/or lease (from or to) the subject premises, Plaintiffs seek preliminary and permanent  
22 injunctive relief to enjoin and eliminate the discriminatory practices and barriers that deny full  
23 and equal access for disabled persons, and for reasonable statutory attorney fees, litigation  
24 expenses and costs.

25 51. Wherefore Plaintiffs ask this Court to preliminarily and permanently enjoin any  
26 continuing refusal by Defendants to grant full and equal access to Plaintiffs in the ways  
27 complained of and to require Defendants to comply forthwith with the applicable statutory  
28 requirements relating to access for disabled persons. Such injunctive relief is provided by



1 California Health & Safety Code section 19953, California Civil Code section 55, and other law.  
 2 Plaintiffs further request that the Court award damages pursuant to Civil Code section 54.3 and  
 3 other law and attorney fees, litigation expenses, and costs pursuant to Health & Safety Code  
 4 section 19953, Civil Code sections 54.3 and 55, Code of Civil Procedure section 1021.5 and other  
 5 law, all as hereinafter prayed for.

6       **52. DAMAGES:** As a result of the denial of full and equal access to the described  
 7 facilities and due to the acts and omissions of Defendants and each of them in owning, operating,  
 8 leasing, constructing, altering, and maintaining the subject facilities, Plaintiffs have each suffered  
 9 a violation of his civil rights, including but not limited to rights under Civil Code sections 54 and  
 10 54.1, and each has suffered difficulty, discomfort and embarrassment, and physical, mental and  
 11 emotional personal injuries, all to his damages per Civil Code section 54.3, including general and  
 12 statutory damages, and treble damages, as hereinafter stated. Defendants' actions and omissions  
 13 to act constitute discrimination against Plaintiffs on the basis that they were and are physically  
 14 disabled and unable, because of the architectural, policy and other barriers created and/or  
 15 maintained by the Defendants in violation of the subject laws, to use the public facilities on a full  
 16 and equal basis as other persons. The violations have deterred Plaintiffs from returning to attempt  
 17 to patronize the Tommy T's Comedy Club and will continue to cause each of them damages so  
 18 long as these barriers to access continue to be present, according to proof.

19       **53. TREBLE DAMAGES:** Plaintiffs have each been damaged by Defendants'  
 20 wrongful conduct and seek the relief that is afforded by Civil Code sections 54, 54.1, and 54.3.  
 21 On information and belief, at all times herein mentioned, Defendants were fully aware that  
 22 significant numbers of potential users of their public facilities were and are and will be physically  
 23 disabled persons, including wheelchair users and other mobility-impaired persons, and would  
 24 have need of facilities that complied with California Title 24 and ADAAG standards for  
 25 accessible facilities. They were also specifically notified by Plaintiff Jackson of the inaccessible  
 26 restroom. Despite this knowledge, Defendants installed and maintained the physical barriers  
 27 complained of, and failed to remove these barriers, and have failed to provide properly accessible  
 28 facilities or cease discriminatory policies, including but not limited to those previously noted

1 hereinabove, as required by state and federal law. On information and belief, Defendants have  
2 ignored complaints about the lack of proper disabled access by Plaintiffs and by other disabled  
3 persons. In approximately 2011, Plaintiff Jackson complained about the inaccessible restrooms to  
4 Defendants. Defendants' response was "Sue me!" Plaintiff Jackson did not formally complain to  
5 the Court at the time for fear of reprisal and being excluded from future events at the Club.  
6 Defendants have intentionally continued their illegal and discriminatory practices despite actual  
7 knowledge that persons with physical mobility disabilities may attempt to patronize Tommy T's  
8 Comedy Club and encounter illegal barriers which deny them full and equal access when they do  
9 so. Furthermore, in direct retaliation for this lawsuit, Defendants banned Plaintiff Jackson from  
10 returning to the club, and spread rumors and negative statements about Jackson to other  
11 comedians who perform at Tommy T's.

12 54. At all times herein mentioned, Defendants knew, or in the exercise of reasonable  
13 diligence should have known, that their barriers and practices at the subject facilities violated  
14 disabled access requirements and standards, and would have a discriminatory effect upon  
15 Plaintiffs and upon other physically disabled persons, but Defendants have failed to rectify the  
16 violations, and presently continue a course of conduct of maintaining architectural and policy  
17 barriers that discriminate against Plaintiffs and similarly situated disabled persons. For the  
18 foregoing reasons, Plaintiffs allege that an award of statutory treble damages is appropriate.

19 55. **FEES AND COSTS:** As a result of Defendants' acts, omissions, and conduct,  
20 Plaintiffs have been required to incur attorney fees, litigation expenses, and costs as provided by  
21 statute, in order to enforce Plaintiffs' rights and to enforce provisions of the law protecting access  
22 for disabled persons and prohibiting discrimination against disabled persons. Plaintiffs therefore  
23 seek recovery of all reasonable attorney fees, litigation expenses, and costs, pursuant to the  
24 provisions of Civil Code sections 54.3 and 55, and California Health & Safety Code section  
25 19953. Additionally, Plaintiffs' lawsuit is intended to require that Defendants make their  
26 facilities accessible to all disabled members of the public, justifying "public interest" attorney  
27 fees, litigation expenses and costs pursuant to the provisions of California Code of Civil  
28 Procedure section 1021.5 and other applicable law.

WHEREFORE, Plaintiffs pray for damages and injunctive relief as hereinafter stated.

**SECOND CAUSE OF ACTION:  
VIOLATION OF CALIFORNIA LAW INCLUDING: THE UNRUH ACT, CIVIL CODE  
SECTIONS 51 AND 52, AND THE AMERICANS WITH DISABILITIES ACT AS  
INCORPORATED BY CIVIL CODE SECTION 51(f)**

56. Plaintiffs re-plead and incorporates by reference, as if fully set forth hereafter, the factual allegations contained in Paragraphs 1 through 55 of this Complaint and incorporates them herein as if separately re-pleaded.

57. At all times relevant to this complaint, California Civil Code section 51 has provided that physically disabled persons are free and equal citizens of the state, regardless of medical condition or disability:

All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, *disability, or medical condition* are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

Civil Code § 51(b). [Emphasis added.]

58. California Civil Code section 52 provides that the discrimination by Defendants against Plaintiffs on the basis of his disability constitutes a violation of the general anti-discrimination provisions of sections 51 and 52.

59. Each of Defendants' discriminatory acts or omissions constitutes a separate and distinct violation of California Civil Code section 52, which provides that:

Whoever denies, aids or incites a denial, or makes any discrimination or distinction contrary to section 51, 51.5, or 51.6 is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than four thousand dollars (\$4,000), and any attorney's fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51, 51.5, or 51.6.

60. Any violation of the Americans with Disabilities Act of 1990 (as pled in the third cause of action) constitutes a violation of California Civil Code section 51(f), thus independently justifying an award of damages and injunctive relief pursuant to California law, including Civil Code section 52. Per Civil Code section 51(f), "A violation of the right of any individual under

1 the Americans with Disabilities Act of 1990 (Public Law 101-336) shall also constitute a  
2 violation of this section.”

3 61. The actions and omissions of Defendants as herein alleged constitute a denial of  
4 access to and use of the described public facilities by physically disabled persons within the  
5 meaning of California Civil Code sections 51 and 52. As a proximate result of Defendants’  
6 action and omissions, Defendants have discriminated against Plaintiffs in violation of Civil Code  
7 sections 51 and 52, and are responsible for statutory, compensatory and treble damages to  
8 Plaintiff, according to proof.

9 62. **FEES AND COSTS:** As a result of Defendants’ acts, omissions and conduct,  
10 Plaintiffs have been required to incur attorney fees, litigation expenses and costs as provided by  
11 statute in order to enforce Plaintiffs’ rights and to enforce provisions of law protecting access for  
12 disabled persons and prohibiting discrimination against disabled persons. Plaintiffs therefore  
13 seek recovery of all reasonable attorney fees, litigation expenses and costs pursuant to the  
14 provisions of California Civil Code sections 51 and 52. Additionally, Plaintiffs’ lawsuit is  
15 intended to require that Defendants make their facilities and policies accessible to all disabled  
16 members of the public, justifying “public interest” attorney fees, litigation expenses and costs  
17 pursuant to the provisions of California Code of Civil Procedure section 1021.5 and other  
18 applicable law.

19 WHEREFORE, Plaintiffs pray for damages and injunctive relief as hereinafter  
20 stated.

21 **THIRD CAUSE OF ACTION:**  
22 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**  
23 **42 USC §§ 12101 *et seq***

24 63. Plaintiffs re-plead and incorporates by reference, as if fully set forth again herein,  
25 the allegations contained in Paragraphs 1 through 62 of this Complaint and incorporates them  
26 herein as if separately re-pleaded.

27 64. In 1990 the United States Congress made findings that laws were needed to more  
28 fully protect “some 43,000,000 Americans [with] one or more physical or mental disabilities;”  
that “historically, society has tended to isolate and segregate individuals with disabilities;” that

“such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;” that “the Nation’s proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals;” and that “the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous...” 42 U.S.C. §12101.

65. Plaintiffs are each a qualified individual with a disability as defined in the Rehabilitation Act and in the Americans with Disabilities Act of 1990.

66. In passing the Americans with Disabilities Act of 1990 (hereinafter “ADA”), Congress stated as its purpose:

It is the purpose of this Act

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

42 USC § 12101(b).

67. As part of the ADA, Congress passed “Title III - Public Accommodations and Services Operated by Private Entities” (42 USC § 12181 *et seq.*). The subject property and facility is one of the “private entities” which are considered “public accommodations” for purposes of this title, which includes but is not limited to “a restaurant, bar, or other establishment serving food or drink” (42 USC § 12181(7)(B)) and any “place of exhibition or entertainment” (42 USC § 12181(7)(C)).

68. The ADA states that “No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages,

1 or accommodations of any place of public accommodation by any person who owns, leases, or  
 2 leases to, or operates a place of public accommodation.” 42 U.S.C. § 12182. The specific  
 3 prohibitions against discrimination include, but are not limited to the following:

4 § 12182(b)(1)(A)(ii): “Participation in Unequal Benefit. - It shall be discriminatory to afford an  
 5 individual or class of individuals, on the basis of a disability or disabilities of such individual or  
 6 class, directly, or through contractual, licensing, or other arrangements, with the opportunity to  
 7 participate in or benefit from a good, service, facility, privilege, advantage, or accommodation  
 8 that is not equal to that afforded to other individuals.”

9 § 12182(b)(2)(A)(ii): “a failure to make reasonable modifications in policies, practices, or  
 10 procedures when such modifications are necessary to afford such goods, services, facilities,  
 11 privileges, advantages, or accommodations to individuals with disabilities...;”

12 § 12182(b)(2)(A)(iii): “a failure to take such steps as may be necessary to ensure that no  
 13 individual with a disability is excluded, denied service, segregated, or otherwise treated  
 14 differently than other individuals because of the absence of auxiliary aids and services...;”

15 § 12182(b)(2)(A)(iv): “a failure to remove architectural barriers, and communication barriers that  
 16 are structural in nature, in existing facilities... where such removal is readily achievable;”

17 § 12182(b)(2)(A)(v): “where an entity can demonstrate that the removal of a barrier under clause  
 18 (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges,  
 19 advantages, or accommodations available through alternative methods if such methods are readily  
 20 achievable.”

21 The acts and omissions of Defendants set forth herein were in violation of Plaintiffs’ rights under  
 22 the ADA and the regulations promulgated thereunder, 28 C.F.R. Part 36 *et seq.*

23 69. The removal of each of the physical barriers complained of by Plaintiffs as  
 24 hereinabove alleged, were at all times herein mentioned “readily achievable” under the standards  
 25 of sections 12181 and 12182 of the ADA. As noted hereinabove, removal of each and every one  
 26 of the architectural and/or policy barriers complained of herein were already required under  
 27 California law. Further, on information and belief, alterations, structural repairs or additions  
 28 since January 26, 1993, have also independently triggered requirements for removal of barriers to

1 access for disabled persons per section 12183 of the ADA. In the event that removal of any  
2 barrier is found to be “not readily achievable,” Defendants still violated the ADA, per  
3 section 12182(b)(2)(A)(v) by failing to provide all goods, services, privileges, advantages and  
4 accommodations through alternative methods that were “readily achievable.”

5 70. The ability to use a restroom is a fundamental necessity of accessing and using a  
6 comedy club which serves food and drinks. Therefore, the benefits of creating a restroom with  
7 accessible features do not exceed the costs of readily achievable barrier removal. These costs are  
8 fundamental to doing business, like any other essential function of operating a comedy club, bar,  
9 or restaurant, such as the costs of as ensuring fire safety. It is thus readily achievable to remove  
10 these barriers.

11 71. On information and belief, as of the dates of Plaintiffs’ encounters at the premises  
12 and as of the filing of this Complaint, Defendants’ actions, policies, and physical premises have  
13 denied and continue to deny full and equal access to Plaintiffs and to other mobility disabled  
14 persons in other respects, which violate Plaintiffs’ right to full and equal access and which  
15 discriminate against Plaintiffs on the basis of their disabilities, thus wrongfully denying to  
16 Plaintiffs the full and equal enjoyment of the goods, services, facilities, privileges, advantages and  
17 accommodations, in violation of 42 U.S.C. sections 12182 and 12183 of the ADA.

18 72. Defendants’ actions continue to deny Plaintiffs’ rights to full and equal access by  
19 deterring Plaintiffs from patronizing Tommy T’s Comedy Club and discriminated and continue to  
20 discriminate against them on the basis of their disabilities, thus wrongfully denying to Plaintiffs  
21 the full and equal enjoyment of Defendants’ goods, services, facilities, privileges, advantages and  
22 accommodations, in violation of section 12182 of the ADA. 42 U.S.C. § 12182.

23 73. Pursuant to the Americans with Disabilities Act, 42 U.S.C. sections 12188 *et seq.*,  
24 Plaintiffs Arthur Renowitzky and Dewayne Jackson are entitled to the remedies and procedures  
25 set forth in section 204(a) of the Civil Rights Act of 1964, 42 USC 2000(a)-3(a), as Plaintiffs are  
26 being subjected to discrimination on the basis of their disabilities in violation of sections 12182  
27 and 12183 of this title. On information and belief, Defendants have continued to violate the law  
28 and deny the rights of Plaintiffs and other disabled persons to “full and equal” access to this



1 public accommodation since on or before Plaintiffs' encounters. Pursuant to section 12188(a)(2)

2 [i]n cases of violations of § 12182(b)(2)(A)(iv) and § 12183(a)... injunctive relief  
3 shall include an order to alter facilities to make such facilities readily accessible to  
4 and usable by individuals with disabilities to the extent required by this title. Where  
5 appropriate, injunctive relief shall also include requiring the provision of an  
6 auxiliary aid or service, modification of a policy, or provision of alternative  
7 methods, to the extent required by this title.

8 74. Plaintiffs seek relief pursuant to remedies set forth in section 204(a) of the Civil  
9 Rights Act of 1964 (42 USC 2000(a)-3(a)), and pursuant to Federal Regulations adopted to  
10 implement the Americans with Disabilities Act of 1990. Plaintiffs Arthur Renowitzky and  
11 Dewayne Jackson are each a qualified disabled person for purposes of section 12188(a) of the  
12 ADA who is being subjected to discrimination on the basis of disability in violation of Title III  
13 and who has reasonable grounds for believing he will be subjected to such discrimination each  
14 time that he may use or attempt to use the property and premises, or attempt to patronize Tommy  
15 T's Comedy Club, in light of Defendants' policies and physical premises barriers.

16 WHEREFORE, Plaintiffs request relief as outlined below.

17 **FOURTH CAUSE OF ACTION:**  
18 **VIOLATION OF TITLES III AND IV OF THE AMERICANS WITH DISABILITIES**  
19 **ACT FOR RETALIATION**

20 75. Plaintiffs re-plead and incorporates by reference, as if fully set forth again herein,  
21 the allegations contained in Paragraphs 1 through 74 of this Complaint and incorporates them  
22 herein as if separately re-pleaded.

23 76. The ADA specifically prohibits retaliation or coercion in respond to an  
24 individual's enforcement of the ADA in filing a lawsuit or proceeding under it. The text of the  
25 ADA in Title IV provides for:

26 Prohibition against retaliation and coercion

27 (a) Retaliation

28 No person shall discriminate against any individual because such individual has  
opposed any act or practice made unlawful by this chapter or because such  
individual made a charge, testified, assisted, or participated in any manner in an  
investigation, proceeding, or hearing under this chapter.

(b) Interference, coercion, or intimidation

1 It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual  
 2 in the exercise or enjoyment of, or on account of his or her having exercised or  
 3 enjoyed, or on account of his or her having aided or encouraged any other individual  
 4 in the exercise or enjoyment of, any right granted or protected by this chapter.

42. USC § 12203.

77. Regulations promulgated by the Department applicable to this case and the  
 retaliation engaged in by Defendants further specify that:

Retaliation or coercion.

(a) No private or public entity shall discriminate against any individual because that  
 individual has opposed any act or practice made unlawful by this part, or because  
 that individual made a charge, testified, assisted, or participated in any manner in  
 an investigation, proceeding, or hearing under the Act or this part.

(b) No private or public entity shall coerce, intimidate, threaten, or interfere with  
 any individual in the exercise or enjoyment of, or on account of his or her having  
 exercised or enjoyed, or on account of his or her having aided or encouraged any  
 other individual in the exercise or enjoyment of, any right granted or protected by  
 the Act or this part.

(c) Illustrations of conduct prohibited by this section include, but are not limited to:

(1) Coercing an individual to deny or limit the benefits, services, or  
 advantages to which he or she is entitled under the Act or this part;

(2) Threatening, intimidating, or interfering with an individual with a  
 disability who is seeking to obtain or use the goods, services, facilities,  
 privileges, advantages, or accommodations of a public accommodation;

(3) Intimidating or threatening any person because that person is assisting  
 or encouraging an individual or group entitled to claim the rights granted or  
 protected by the Act or this part to exercise those rights; or

(4) Retaliating against any person because that person has participated in  
 any investigation or action to enforce the Act or this part.

28 CFR § 36.206.

78. Defendants and/or their agents specifically banned and blacklisted Plaintiff  
 Jackson from returning to their premises because he had filed a lawsuit to make the premises  
 accessible. This ban also constructively banned Plaintiff Renowitzky from returning to the club  
 given the evidence of not welcoming his co-Plaintiff Jackson to return. Defendants' actions were  
 a clear violation of the anti-retaliation sections of the ADA and associated regulations,  
 particularly because Johnny T used his status and power within the club to retaliate against

1 Plaintiff Jackson by spreading rumors about him and the lawsuit to other comedians, and by  
 2 ignoring Plaintiff Jackson's request that Johnny not talk to him about the lawsuit or enlist others  
 3 to do so on Johnny T's behalf.

4 79. All of these actions and retaliations worsened actual damages and deterrence under  
 5 California law as incorporated violations of the ADA. See Cal. Civ. Code §§ 51(f), 52.

### 6 7 PRAYER

8 Plaintiffs have no adequate remedy at law to redress the wrongs suffered as set forth in  
 9 this Complaint. Plaintiffs have suffered and will continue to suffer irreparable injury as a result  
 10 of the unlawful acts, omissions, policies, and practices of the Defendants as alleged herein, unless  
 11 Plaintiffs are granted the relief they request. Plaintiffs and Defendants have an actual controversy  
 12 and opposing legal positions as to Defendants' violations of the laws of the United States and the  
 13 State of California. The need for relief is critical because the rights at issue are paramount under  
 14 the laws of the United States and the State of California.

15 WHEREFORE, Plaintiffs ARTHUR RENOWITZKY and DEWAYNE JACKSON pray  
 16 for judgment and the following specific relief against Defendants:

17 1. Issue a preliminary and permanent injunction directing Defendants as current  
 18 owners, operators, lessors, and/or lessees of the subject property and premises to modify the  
 19 above described property, premises, policies and related facilities to provide full and equal access  
 20 to all persons, including persons with physical disabilities; and issue a preliminary and permanent  
 21 injunction pursuant to ADA section 12188(a) and state law directing Defendants to provide  
 22 facilities usable by Plaintiffs and similarly situated persons with disabilities, and which provide  
 23 full and equal access, as required by law, and to maintain such accessible facilities once they are  
 24 provided; to cease any discriminatory policies, and to train Defendants' employees and agents in  
 25 how to recognize disabled persons and accommodate their rights and needs;

26 2. Stop all retaliation against Plaintiffs for asserting their rights under the ADA and  
 27 enforcing its provisions.

28 3. Retain jurisdiction over the Defendants until such time as the Court is satisfied that

Defendants' unlawful policies, practices, acts and omissions, and maintenance of physically inaccessible public facilities and policies as complained of herein no longer occur, and cannot recur;

4. Award to Plaintiffs all appropriate damages, including but not limited to statutory damages, general damages, and treble damages in amounts within the jurisdiction of the Court, all according to proof;

5. Award to Plaintiffs all reasonable statutory attorney fees, litigation expenses, and costs of this proceeding as provided by law;

6. Award prejudgment interest pursuant to Civil Code section 3291; and

7. Grant such other and further relief as this Court may deem just and proper.

Date: September 16, 2021

REIN & CLEFTON

/s/ Aaron Clefton  
By AARON CLEFTON, Esq.  
Attorney for Plaintiffs  
ARTHUR RENOWITZKY and DEWAYNE JACKSON

### JURY DEMAND

Plaintiffs hereby demand a trial by jury for all claims for which a jury is permitted.

Date: September 16, 2021

REIN & CLEFTON

/s/ Aaron Clefton  
By AARON CLEFTON, Esq.  
Attorney for Plaintiffs  
ARTHUR RENOWITZKY and DEWAYNE JACKSON